

[REDACTED]

Key District: [REDACTED]  
Accounting Period Ending: December 31

MAR 13 1990

Dear Applicant:

This is a final adverse ruling as to your exempt status under section 501(c)(4) of the Internal Revenue Code.

Our adverse ruling of [REDACTED], was based on the fact that you are similar to the organization described in Rev. Rul. 61-158, 1961-2 C.B. 115. Your principal activity is conducting pull-tab games, a gambling activity. This is principally a business activity, rather than an activity which promotes social welfare. Any benefit flowing to the community is minimal and is only incidental to your primary business purpose. Therefore, we concluded that you were not described in section 501(c)(4) because you were not operated exclusively for social welfare.

You filed a timely protest to our ruling, no conference was held. We have reviewed your protest. Based on the facts and circumstances contained in your application, we conclude that you are organized to operate a business activity rather than for the social welfare of the community. Therefore, our ruling letter of [REDACTED], is affirmed. You are required to file federal income tax returns.

If you have any question, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

(signed) [REDACTED]

Chief, Exempt Organizations  
Rulings Branch 2

cc: [REDACTED]  
cc: State officials  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JAN 22 1990

Ladies and Gentlemen:

This is in response to your application for recognition of exemption under section 501(c)(4) of the Internal Revenue Code of 1986.

Your Constitution and By-Laws provides that you will have the following purpose. "The main purpose will be to conduct charitable Gambling according to the laws of the State of [REDACTED] for the main purpose to donate profits to aid the [REDACTED] in the purchase of equipment needed to maintain their fire department.


Your principal activity appears to be selling pull-tab games. Your financial information indicates a steady increase in your gross receipts. In [REDACTED] you had gross receipts per year of almost \$[REDACTED]. You contributed less than 1% to charitable causes.

Section 501(c)(4) of the Code provides for the exemption from federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations, provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the community. An organization embraced within this section is one that is operated primarily for the purpose of bringing about civic betterment and social improvements.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations, provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

Section 513(f) of the Code provides that unrelated trade or business does not include certain bingo games engaged in by exempt organizations, including those described in section 501(c)(4).



Section 1.513-1(e)(1) provides that the term unrelated trade or business does not include any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation.

Rev. Rul. 61-158, 1961-2 C.B. 115, describes an organization that was created exclusively for the promotion of social welfare and whose principal activity is conducting a lottery on a weekly basis with the general public. Its principal source of income is its gross receipts from the weekly lottery. It used the profits there from primarily for the payment of its general expenses with only a small portion used in furtherance of its exempt purpose. The ruling holds that the organization is not operated exclusively for the promotion of social welfare but it is engaged in a business for profit. Accordingly, it was not found to be exempt under section 501(c)(4) of the Code.

Organizations primarily engaged in profit making and non-social welfare activities cannot be exempt under section 501(c)(4) of the Code. See Santa Clara Building Association v. United States, 411 F. Supp. 871.

Bingo is the only type of gaming activity that is generally excepted from unrelated trade or business income tax imposed by section 511 of the code, if an organization is otherwise held to be exempt. However, it was not the intent of the U.S. Congress to revise the rules of existing law under section 501(c)(4) merely because of the new exception under section 513(f) from section 511 taxation. A social welfare organization must be operated primarily for exempt purposes before such considerations as to whether the section 511 tax applies to a particular activity can be made. Further, pull-tab games are not excluded from section 511 tax by section 513(f). Therefore, if you could establish that you were exempt under section 501(c)(4) of the code, all your income would be subject to unrelated business income tax. You would not be able to take advantage of the exception contained in section 1.513-1(e)(1) of the regulations because your activity is not conducted with volunteer labor.

Section 501(c)(4) of the Code imposes an operational test for organizations seeking exemption. When we examine your activities, we find that they are principally business activities rather than activities that, in themselves, promote social welfare. Your primary activity is conducting pull-tab games in order to raise money. These activities do not, of themselves, promote social welfare. Your principal activity can be

[REDACTED]

characterized as either carrying on a business with the general public in a manner similar to organizations which are operated for profit or a low cost gambling or social activity for the benefit of the participants. You are similar to the organization described in Rev. Rul. 61-158. Accordingly, you are not operated primarily for the promotion of social welfare.

Based on the above, we conclude that you do not qualify for exemption under section 501(c)(4) of the Code. You are required to file federal income tax returns on Form 1120 for each year you have been in existence.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by some one who is not one of your officers, that person will need to file a proper power of attorney and other wise qualify under our Conference and Practice Procedures.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director in Chicago, Il. Thereafter, any questions about your federal income tax status should be addressed to that office.

Additional letters with respect to this case should be sent to [REDACTED], Internal Revenue Service, 1111 Constitution Avenue, N. W., Washington, D.C. 20224.

CC [REDACTED]

Sincerely yours,

[REDACTED]  
Chief, Exempt Organizations  
Rulings Branch 2

[REDACTED]  
1/22/90

[REDACTED]  
1/22/90